

The Gazette



of India

PUBLISHED BY AUTHORITY

No. 27]

NEW DELHI, SATURDAY, JULY 4, 1959/ASADHA 13, 1881

NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 25th June, 1959 :—

Issue No.	No. and date	Issued by	Subject
95	S.O. 1412, dated June, 1959.	19th Ministry of Works, Housing and Supply.	Authorising Shri R. C. Mehra, Under Secretary, Min. of W. II. & S. to perform the functions of competent authority under the Requisitioning and Acquisition of Immovable Property Act, 1952.
96	S.O. 1413, dated June, 1959.	23rd Ministry of Information and Broadcasting.	Approval of films specified therein.
97	S.O. 1414, dated June, 1959.	23rd Ministry of Food and Agriculture.	Fixation of Tariff Values of articles specified therein.
98	S.O. 1476, dated June, 1959.	25th Central Board of Revenue	Draft amendments in Indian Income-tax Rules, 1922.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 24th June 1959

S.O. 1480.—In continuation of Election Commission's notification No. 82/83/57, dated the 6th August, 1958, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 12th August, 1958, the Election

Commission hereby publishes the Judgment of the Supreme Court of India, delivered on the 20th May, 1959, on the appeal filed by Shri V. V. Giri, against the order, dated the 13th March, 1958, of the High Court of Judicature, Andhra Pradesh, at Hyderabad.

IN THE SUPREME COURT OF INDIA

CIVIL APPEAL NO. 539 OF 1958.

Shri V. V. Giri—*Appellant*,

versus

Dippala Suri Dora & Ors.—*Respondents*.

JUDGMENT

Gajendragadkar J.

This appeal by special leave arises from an election petition filed by Mr. V. V. Giri (hereinafter called the appellant) in which the validity of the election of Mr. Dippala Suri Dora (hereinafter called respondent 1) was challenged. The Parliamentary Constituency of Parvatipuram in the State of Andhra Pradesh is a double-member constituency; one seat is reserved for the scheduled tribes and the other is general. In the General Election to the House of the People held in 1957 four candidates had been nominated from the said constituency. The appellant and Mr. B. Satyanarayana Dora (hereinafter called respondent 2) were adopted by the Congress Party, while respondent 1 and Mr. V. Krishnamoorthy Naidu (hereinafter called respondent 3) were the candidates of the Socialist Party. For this constituency polling took place between February 25 and March 19, 1957, and the counting of votes disclosed that the appellant and the three respondents had secured 1,24,039, 1,24,604, 1,26,792 and 1,18,968 votes respectively. The result of the election was declared on March 19, 1957. It was announced that respondent 2 had been elected to fill the reserved seat and respondent 1 the general seat. On April 16, 1957, the appellant filed the present election petition No. 83 of 1957 challenging the validity of respondent 1's election. He alleged that respondent 1 had offered himself as a candidate for the reserved seat and as such he was not entitled to be elected for the general seat. In the alternative he urged that respondent 1 was not a member of the scheduled tribe at the material time and so the declaration made by him in that behalf was false. According to the appellant respondent 1's nomination had, therefore, been improperly accepted and it had materially affected the election. That is why the appellant claimed a two-fold declaration. He wanted the tribunal to declare that the election of respondent 1 under the Representation of the People Act, 1951 (Act 43 of 1951) (hereinafter called the Act) was void and that he had himself been duly elected to the House of the People from the Parvatipuram Parliamentary Constituency for the general and non-reserved seat. These allegations were denied by respondent 1.

Broadly stated the main part of the appellant's case rested on two grounds. He relied on the fact that both the Congress and Socialist Parties had adopted two candidates each, one for the reserved seat and the other for the general seat. Respondent 1 had been adopted for the reserved seat and in the nomination forms filed on his behalf he had made the requisite declaration that he was a member of the scheduled tribe. He conducted his election campaign on the basis that he was a candidate for the reserved seat and the voters must have voted for him on the same basis. If it is found that his rival candidate for the said reserved seat (respondent 2) secured a larger number of votes and so he was declared elected to fill the said seat, it is not open to respondent 1 to claim election for the general seat. If a candidate offers himself for one seat, how can he claim to be elected for the other, asks the appellant.

The appellant concedes that the reservation of seats for the scheduled castes or tribes is a special concession shown to the members of the said castes and tribes in view of the fact that they are educationally, socially and financially very backward; it is also conceded that members of the scheduled castes or tribes are entitled to contest election for the general seat; but the argument is that a member of the scheduled tribe must make up his mind and decide which seat he wishes to contest. If he wants to contest the general seat he may do so and in that event he should not make the prescribed declaration on his nomination form; on the other hand, if he wants to contest the reserved seat he should elect to do so, make the necessary declaration and then concentrate his attention on the reserved seat. Having once made his election he cannot subsequently fall back upon his right to be elected for the general seat. Thus presented the argument no doubt appears to be plausible and even attractive.